

RATE CAPS ON INMATE COLLECT CALLING

State	Rate Cap?	Local	IntraLATA	InterLATA	Notes
Alabama	YES	LEC	LEC	Highest IXC	
Alaska	case by case				
Arizona	YES	LEC	LEC	Certificated intrastate carrier	
Arkansas	YES	SWB	AT&T	AT&T	
California	NO				Contracts awarded by state for inmate service.
Colorado	YES	US WEST	AT&T	Benchmark AT&T	
Connecticut	N/A				COCOTs are not allowed in the state.
Delaware	NO				Contracts awarded by state for inmate service.
Florida	YES	LEC-BS	LEC+\$0.25	\$0.25/min. + \$1.25 surcharge	
Georgia	YES	LEC-BS*	LEC	AT&T	Rules cap local at \$0.95 unless justified before the Commission.
Hawaii	N/A				
Idaho	deregulated	See Note	See Note	See Note	Must file price list
Illinois	NO				OSP rate caps exclude inmate.
Indiana	YES	LEC	LEC-IN Bell IURC-T7	Highest facilities based IXC (AT&T)	
Iowa	YES	See Note	See Note	See Note	If inmate only, the provider is fully regulated and capped at rates charged by other carriers in the state.
Kansas	NO				
Kentucky	YES	LEC	See Note	See Note	Rates are capped at 15% above the average of AT&T, Sprint and MCI.
Louisiana	YES	See Note	See Note	See Note	Commission established Benchmarks
Maine	YES	See Note	See Note	See Note	Rates are not capped by rule. However, the Commission has never allowed rates higher than NYNEX or AT&T.
Maryland	YES	LEC-BA	LEC-BA	AT&T	
Massachusetts	YES	AT&T	AT&T	AT&T	
Michigan	YES	See Note	See Note	See Note	Rates higher than 300% of state average are prohibited.
Minnesota	YES	LEC-USW	AT&T	AT&T	
Mississippi	YES	LEC-BS	LEC-BS	AT&T	
Missouri	NO *				Justification is required for rates above Bell and AT&T.
Montana	Not Regulated				

Produced by TECHNOLOGIES MANAGEMENT, INC., a telecommunications consulting firm specializing in regulatory compliance issues, tariff research and tariff sales 210 North Park Avenue * Winter Park, Florida * (407) 740-8575.

RATE CAPS ON INMATE COLLECT CALLING

State	Rate Cap?	Local	IntraLATA	InterLATA	Notes
Nebraska	NO				
Nevada	YES	LEC-NV BL	LEC-NV BL	LEC-NV BL	
New Hampshire	YES	LEC-NYNEX	LEC-NYNEX	N/A	N/A
New Jersey	NO				
New Mexico	NO				Contracts awarded by state for inmate service.
New York	YES	LEC	AT&T Day Rate	AT&T Day Rate	
North Carolina	YES	LEC	LEC	AT&T Time of Day	
North Dakota	NO				
Ohio	YES	LEC-AMER.	LEC-AMER.	Gen. guidelines rate or \$0.36/min.	General guideline rates or \$0.36/min.
Oklahoma	YES	Highest max. rate of certificated LECs *	Highest max. rate of certificated LECs	Highest max. rate of certificated IXCs *	Rates above cap will require hearing and Commission Order.
Oregon	NO				
Pennsylvania	YES	LEC-BA	See InterLATA	Highest Day retail trfd rate of any fac. based carrier for the same call	
Rhode Island	YES	\$0.25+ surcharge	NYNEX	N/A	
South Carolina	YES	LEC-BS	LEC-BS	AT&T	
South Dakota	YES	\$0.25 per call+ sur.	No max	No max.	
Tennessee	YES	LEC	LEC	AT&T	
Texas	YES	See Note	See Note.	See Note.	Caps are based upon the highest applicable rate for such calls from the four largest carriers. (Per Staff, MCI, AT&T, Sprint and LDDS).
Utah	Not Regulated				
Vermont	NO				Contracts awarded by state for inmate service.
Virginia	Not Regulated				
Washington	YES	Certificated LEC	AT&T Day Rate + \$0.25	AT&T Day Rate + \$0.25	
West Virginia	NO				Registration as a COCOT will require rate caps. Registration as an IXC - no caps.
Wisconsin	YES	Ameritech	Ameritech	AT&T	
Wyoming	Deregulated				
Wash. DC	unknown				

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NORTH CAROLINA - INMATE COLLECT CALLS
LOCAL COLLECT CALLS COST EXHIBIT - \$.25 LOCAL CALL

\$.25 LEC LOCAL CALL RATE (CAPPED)
\$.70 LEC COLLECT SURCHARGE (CAPPED)

	BELLSOUTH LOCAL	
REVENUE	<u>\$0.950</u>	
PHONE COMPANY CHARGES:		
MONTHLY LINE CHARGE	\$0.053	1
MEASURED SERVICE	\$0.160	2
BILLING AND COLLECTION FEES	\$0.221	3
VALIDATION	\$0.205	4
OPERATING COSTS:		
SITE OWNER COMMISSION (25%)	\$0.238	
BAD DEBT - 20%	\$0.190	
MAINTENANCE & REPAIRS	\$0.042	5
EQUIPMENT AMORTIZATION	\$0.101	6
OVERHEAD	\$0.175	7
TAXES:		
NC FRANCHISE TAX - 3.22%	\$0.031	
NC SALES TAX - 3.00%	-	8
NC SALES TAX - 6.50%	-	
TOTAL COSTS	\$1.415	
PROFIT/(LOSS) PER CALL BEFORE TAXES	(\$0.465)	

- 1) Based on \$31 per month line charge divided by an average of 585 calls per month per line.
- 2) Measured service based on an 8 minute call with 50%/50% peak/off-peak mix and 1 Answered/Not-Accepted call per Answered/Accepted call.
- 3) BellSouth billing and collection fees of \$0.36 for bill rendering, \$.06 per message with 7 messages per bill and a clearinghouse fee of \$.11 per message.
- 4) Three validation queries at \$.0683 each for each billable call
(1 No Answer/Busy, 1 Answered/Not-Accepted, 1 Answered/Accepted).
- 5) Maintenance and Repairs includes: 1 Technician @ \$10.50/hr with benefits and a 44-hour week servicing 200 phones, 1 vehicle and all parts - \$24.75 per month.
- 6) \$3,545 per line for equipment amortized over 60 months and an average of 585 calls per line per month.
- 7) Based on \$102.38 per month with 585 calls per month per line.
- 8) NC Sales Tax added to the price of the call.

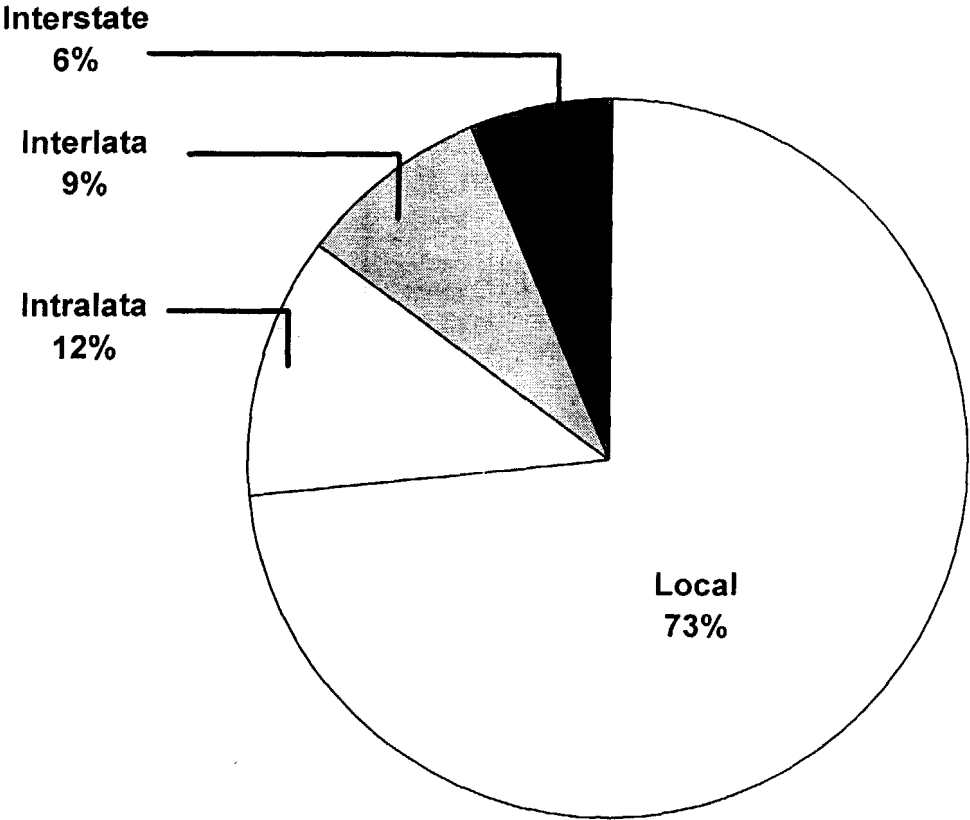
NORTH CAROLINA - INMATE COLLECT CALLS **INTRA-LATA COLLECT CALLS COST EXHIBIT**

RATE CAPPED AT LEC RATE
50 MILE, 8 MINUTE CALL

	BELLSOUTH INTRA-LATA	
REVENUE	<u>\$3.060</u>	1
PHONE COMPANY CHARGES:		
MONTHLY LINE CHARGE	\$0.053	2
MEASURED SERVICE	\$1.810	3
BILLING AND COLLECTION FEES	\$0.241	4
VALIDATION	\$0.205	5
OPERATING COSTS:		
SITE OWNER COMMISSION (30%)	\$0.918	
BAD DEBT - 20%	\$0.612	
MAINTENANCE & REPAIRS	\$0.042	6
EQUIPMENT AMORTIZATION	\$0.101	7
OVERHEAD	\$0.175	8
TAXES:		
NC FRANCHISE TAX - 3.22%		
NC SALES TAX - 3.00%	-	9
NC SALES TAX - 6.50%	-	
TOTAL COSTS	\$4.157	
PROFIT/(LOSS) PER CALL BEFORE TAXES	(\$1.097)	

- 1) Based on an 8 minute call to the 50 mile band at LEC MTS rate averaged across the 3 discount periods plus a toll surcharge ($\$0.34 + (7 * \$0.21) + \$1.25 = \3.06)
- 2) Based on \$31 per month line charge divided by an average of 585 calls per month per line.
- 3) Based on an 8 minute call to the 50 mile band at LEC MTS rate averaged across the 3 discount periods($\$0.34 + (7 * \$0.21) = \$1.81$)
- 4) BellSouth billing and collection fees of \$0.36 for bill rendering, \$.06 per message with 7 messages per bill and a clearinghouse fee of \$.11 per message.
- 5) Three validation queries at \$.0683 each for each billable call
(1 No Answer/Busy, 1 Answered/Not-Accepted, 1 Answered/Accepted).
- 6) Maintenance and Repairs includes: 1 Technician @ \$10.50/hr with benefits and a 44-hour week servicing 200 phones, 1 vehicle and all parts - \$24.75 per month.
- 7) \$3,545 per line for equipment amortized over 60 months and an average of 585 calls per line per month.
- 8) Based on \$102.38 per month with 585 calls per month per line.
- 9) NC Sales Tax added to the price of the call.

North Carolina County Jail / Inmate Call Traffic



Call Type	Average Call Price
Local	\$ 0.78 - \$0.95
Intralata	\$ 2.34
Interlata	\$ 3.58
Interstate	\$ 4.97

* LEC Rates

Average Call Duration - 7 minutes

LOCAL COLLECT CALL - OPERATOR SURCHARGE

(Highest to Lowest)

May 1996

	State	RBOC	Rate
1	Illinois	Ameritech	\$2.50 *
2	Michigan	Ameritech	\$2.31
3	Indiana	Ameritech	\$2.10
4	North Dakota	US West	\$2.10
5	Wisconsin	Ameritech	\$2.10
6	Nebraska	US West	\$1.95
7	Connecticut	NYNEX	\$1.75
8	Pennsylvania	B Atlantic	\$1.75
9	Colorado	US West	\$1.70
10	Vermont	NYNEX	\$1.65
11	Maryland	B Atlantic	\$1.55
12	Alabama	S Bell	\$1.50
13	Kansas	SW Bell	\$1.50
14	Kentucky	S Bell	\$1.50
15	Utah	US West	\$1.50
16	Montana	US West	\$1.35
17	Rhode Island	NYNEX	\$1.35
18	Arizona	US West	\$1.30
19	Idaho, No.	US West	\$1.30
20	Idaho, So.	US West	\$1.30
21	Iowa	US West	\$1.30
22	Maine	NYNEX	\$1.30
23	Minnesota	US West	\$1.30
24	New Mexico	US West	\$1.30
25	New York	NYNEX	\$1.30
26	Oregon	US West	\$1.30
27	Texas	SW Bell	\$1.30
28	Wyoming	US West	\$1.30
29	Delaware	B Atlantic	\$1.25
30	New Jersey	B Atlantic	\$1.25
31	South Dakota	US West	\$1.25
32	Georgia	S Bell	\$1.20
33	Oklahoma	SW Bell	\$1.20
34	Ohio	Ameritech	\$1.10
35	New Hampshire	NYNEX	\$1.05
36	Florida	S Bell	\$1.00
37	Mississippi	S Bell	\$1.00
38	Missouri	SW Bell	\$1.00
39	Nevada	Pac Bell	\$1.00 *
40	California	Pac Bell	\$0.95
41	Arkansas	SW Bell	\$0.90
42	Massachusetts	NYNEX	\$0.86
43	Virginia	B Atlantic	\$0.75
44	North Carolina	S Bell	\$0.70
45	South Carolina	S Bell	\$0.70
46	Washington	US West	\$0.65
47	Louisiana	S Bell	\$0.63 *
48	West Virginia	B Atlantic	\$0.60 *
49	Tennessee	S Bell	\$0.50 *

* Prison Collect Surcharge

INTRALATA COLLECT CALL - OPERATOR SURCHARGE

(Highest to Lowest)

May 1996

	State	RBOC	Rate
1	Illinois	Ameritech	\$2.50 *
2	Michigan	Ameritech	\$2.31
3	Idaho, So.	US West	\$2.10
4	Indiana	Ameritech	\$2.10
5	North Dakota	US West	\$2.10
6	South Dakota	US West	\$2.10
7	Wisconsin	Ameritech	\$2.10
8	West Virginia	B Atlantic	\$2.00 *
9	Nebraska	US West	\$1.95
10	Missouri	SW Bell	\$1.85
11	Louisiana	S Bell	\$1.83
12	Connecticut	NYNEX	\$1.75
13	Colorado	US West	\$1.70
14	Vermont	NYNEX	\$1.65
15	New York	NYNEX	\$1.58
16	Maryland	B Atlantic	\$1.55
17	Virginia	B Atlantic	\$1.55
18	Alabama	S Bell	\$1.50
19	Kansas	SW Bell	\$1.50
20	Kentucky	S Bell	\$1.50
21	Utah	US West	\$1.50
22	Mississippi	S Bell	\$1.40
23	Montana	US West	\$1.35
24	Rhode Island	NYNEX	\$1.35
25	Arizona	US West	\$1.30
26	Idaho, No.	US West	\$1.30
27	Iowa	US West	\$1.30
28	Maine	NYNEX	\$1.30
29	Minnesota	US West	\$1.30
30	New Mexico	US West	\$1.30
31	Oregon	US West	\$1.30
32	Pennsylvania	B Atlantic	\$1.30 *
33	Wyoming	US West	\$1.30
34	Delaware	B Atlantic	\$1.25
35	New Jersey	B Atlantic	\$1.25
36	North Carolina	S Bell	\$1.25
37	South Carolina	S Bell	\$1.25
38	Washington	US West	\$1.25
39	Georgia	S Bell	\$1.20
40	Oklahoma	SW Bell	\$1.20
41	Texas	SW Bell	\$1.15
42	Ohio	Ameritech	\$1.10
43	New Hampshire	NYNEX	\$1.05
44	Florida	S Bell	\$1.00
45	Nevada	Pac Bell	\$1.00
46	California	Pac Bell	\$0.95
47	Arkansas	SW Bell	\$0.90
48	Massachusetts	NYNEX	\$0.86
49	Tennessee	S Bell	\$0.50 *

* Prison Collect Surcharge

INTERLATA COLLECT CALL - OPERATOR SURCHARGE

(Highest to Lowest)

May 1996

	State	IXC	RATE
1	Arizona	AT&T	\$3.00 *
2	Arkansas	AT&T	\$3.00 *
3	California	AT&T	\$3.00 *
4	Colorado	AT&T	\$3.00 *
5	Delaware	AT&T	\$3.00 *
6	Idaho, No.	AT&T	\$3.00 *
7	Idaho, So.	AT&T	\$3.00 *
8	Illinois	AT&T	\$3.00 *
9	Indiana	AT&T	\$3.00 *
10	Iowa	AT&T	\$3.00 *
11	Kansas	AT&T	\$3.00 *
12	Kentucky	AT&T	\$3.00 *
13	Maine	AT&T	\$3.00 *
14	Maryland	AT&T	\$3.00 *
15	Minnesota	AT&T	\$3.00 *
16	Mississippi	AT&T	\$3.00 *
17	Montana	AT&T	\$3.00 *
18	Nebraska	AT&T	\$3.00 *
19	Nevada	AT&T	\$3.00 *
20	New Jersey	AT&T	\$3.00 *
21	New Mexico	AT&T	\$3.00 *
22	North Dakota	AT&T	\$3.00 *
23	Ohio	AT&T	\$3.00 *
24	Oklahoma	AT&T	\$3.00 *
25	Oregon	AT&T	\$3.00 *
26	Pennsylvania	AT&T	\$3.00 *
27	South Dakota	AT&T	\$3.00 *
28	Texas	AT&T	\$3.00 *
29	Utah	AT&T	\$3.00 *
30	Virginia	AT&T	\$3.00 *
31	Washington	AT&T	\$3.00 *
32	Wisconsin	AT&T	\$3.00 *
33	Wyoming	AT&T	\$3.00 *
34	Alabama	AT&T	\$2.25
35	Georgia	AT&T	\$2.25
36	Michigan	AT&T	\$2.25
37	Missouri	AT&T	\$2.25
38	New Hampshire	AT&T	\$2.25
39	Vermont	AT&T	\$2.25
40	Louisiana	AT&T	\$2.15
41	North Carolina	AT&T	\$2.15
42	West Virginia	AT&T	\$2.15
43	Connecticut	AT&T	\$2.05
44	Rhode Island	AT&T	\$2.05
45	Tennessee	AT&T	\$1.94
46	Florida	AT&T	\$1.75
47	South Carolina	AT&T	\$1.75
48	New York	AT&T	\$1.50
49	Massachusetts	AT&T	\$0.86

* AT&T Prison Collect Surcharge

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STAMP AND RETURN

September 9, 1996

Ex Parte Presentation

William F. Caton, Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

SEP 9 - 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: CC Dockets 92-77 and 96-128

Dear Mr. Caton:

The Inmate Calling Services Providers Coalition ("Coalition") is writing because we wish to express our view on the interrelationship between the Commission's payphone compensation (CC Docket 96-128) and Billed Party Preference/rate ceiling (CC Docket 92-77) proceedings, particularly as they affect providers of inmate calling services. While the Commission must address each proceeding in conjunction with the other, it is important that they be kept analytically distinct. The Coalition also wishes to stress the agreement among the various parties to the rate ceiling proceeding as to an appropriate interstate rate benchmark that would address the Commission's and the industry's concerns over excessive rates and at the same time provide fair compensation to inmate calling service providers.¹

As the Coalition has repeatedly stressed to the Commission, it is critical that the two components of interstate inmate 0+ collect calls -- the inmate calling services and the

¹ The Coalition will also respond to several points made¹ by Gateway Technologies, Inc. ("Gateway") in its reply comments filed August 16, 1996 in CC Docket 92-77 ("Gateway Reply"). Gateway's reply comments continue its long history of unfounded attacks on the Coalition and contains several mischaracterizations of positions taken by the Coalition. The Coalition is disappointed that Gateway continues to use Commission proceedings as a competitive forum in this manner. Gateway's attacks are all the more unfortunate in that they come at a time when virtually all parties to the proceeding have arrived at a rough consensus regarding a workable benchmark. While the Coalition is not interested in squabbling with Gateway, the Coalition does feel compelled to set the record straight on a number of points.

William F. Caton, Acting Secretary
September 9, 1996
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long distance transmission -- remain separate and distinct.² The Commission should not look to per-minute long distance rates for cost recovery for the expenses associated with inmate calling services. Breaking the link between compensation for inmate calling services and interstate rates allows costs to be properly allocated to cost causers and promotes market efficiencies by allowing carriers and inmate calling service providers to better compete on the basis of price. Moreover, it makes clear to end users -- in this case an inmate caller's friends and family -- exactly what it is that they are paying for. Finally, as detailed in the Coalition's reply comments, it would help end the cross-subsidization of intrastate rates by interstate rates. See Coalition BPP Reply at 6.

Thus, the Coalition has proposed a compensation and rate structure that breaks the compensation element out as an explicit charge and does not hide equipment and service costs in long-distance transmission rates. Under the Coalition's proposal, the Commission would adopt, in the payphone compensation proceeding, the \$.90 inmate system compensation charge that the Commission has already recognized³ is a fair rate to compensate inmate calling service providers for the services they render and which the Coalition has demonstrated is necessary to ensure fair compensation for the unique equipment and services required in the inmate environment.⁴ The Commission would then be free to establish, in the Billed Party Preference/rate ceiling proceeding, an interstate rate benchmark at the Big Three's existing *non-inmate* regular rates, plus 15%.⁵ Thus, the cost

² See, e.g., Comments of Inmate Calling Service Providers Coalition, CC Docket 92-77, filed July 17, 1996 at 9 ("Coalition BPP Comments"); Reply Comments of Inmate Calling Service Providers Coalition, CC Docket 92-77, filed August 16, 1996 at 5-6 ("Coalition BPP Reply").

³ The Commission has approved a \$.90 compensation element for inmate 0+ collect calls for each of the Big Three's inmate services. This is in addition to the long distance per-minute transmission rates. See Reply Comments of Inmate Calling Services Providers Coalition, CC Docket 96-128, filed July 15, 1996 at 6-7.

⁴ See Comments of Inmate Calling Services Providers Coalition, CC Docket 96-128, filed July 1, 1996 at 4-13; Reply Comments of Inmate Calling Services Providers Coalition, CC Docket 96-128, filed July 15, 1996 at 3-6.

⁵ If the Commission does not establish a \$.90 compensation charge, then the Coalition advocates a rate benchmark set at the Big Three's inmate rates, plus 15%. Because the Big Three's inmate rates are roughly \$.90 higher than their standard 0+ collect rates, such a benchmark would provide inmate calling service providers with cost recovery roughly equivalent to the \$.90 compensation charge/non-inmate rate proposal. The \$.90

recovery and compensation for the inmate calling services portion of a call, captured in the \$.90 charge, would be kept wholly separate from the Big Three's transmission rates.

Nearly every party filing comments in the Billed Party Preference supports a benchmark at or near the level proposed by the Coalition. As noted by Gateway, "for the first time, the inmate service industry has united behind similar proposals to rid the market of the few unscrupulous providers charging excessive inmate service rates." Gateway Reply at 3. MCI, for example, proposes that the benchmark should be "set based on the average prison rates of MCI, AT&T and Sprint, plus some margin."⁶ Sprint suggests that the Commission set the rate at "115% of the weighted average charges for 0+ calls of the [Big Three]."⁷ GTE advocates that the benchmark be set at 120% of the highest of the Big Three's rates.⁸ Gateway's proposed benchmark -- 100% of Big Three inmate *daytime* rates -- would yield rates similar to the Coalition's.⁹

While the position that Gateway takes in its reply comments is consistent with the Coalition's with respect to rate levels, there is a fundamental flaw with Gateway's proposal. Gateway's reasoning blurs the distinction between the inmate calling service and long distance transmission components of an inmate call. According to Gateway, "[i]nmate service rates are based on a per-call surcharge (\$3.00 in the case of the 'big three' carriers) and per-minute rates, *which in combination* recover the costs associated with providing equipment, collect calling services and associated security services (*e.g.*, call blocking and screening) for correctional institutions." Gateway Reply at 4 (emphasis

(Footnote continued)

compensation charge approach is, however, preferable. It would allow the Commission to ensure, as required by Section 276, that inmate calling service providers are fairly compensated, without having to capture that compensation in the long distance rates.

⁶ Comments of MCI, CC Docket 92-7, filed July 17, 1996 at 6.

⁷ Comments of Sprint Corporation, CC Docket 92-77, filed July 17, 1996 at 1.

⁸ Comments of GTE, CC Docket 92-77, filed July 17, 1996 at 5.

⁹ In its reply comments, Gateway attacks an earlier Coalition benchmark proposal as an "outrageous invitation for continued price gouging" and characterizes the Coalition's current proposal as "a response to Gateway's far lower rate cap" Gateway Reply at 3. This is ironic in light of the fact, that as demonstrated in the Coalition's reply comments, Gateway's current proposal in some instances yields rates *higher than* the Coalition's. Coalition BPP Reply at 4.

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September 9, 1996

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added). In effect, Gateway's proposal would hide from called parties the costs of providing inmate calling services by including it as an undifferentiated element in the per-minute transmission rate charged for the call, obscuring the true nature of the charges. Gateway's proposal is also flawed in that it would upset the expectations of called parties regarding how they are used to being charged, *i.e.* lower per-minute rates in the evening and on weekends. Finally, Gateway's proposal would distort inmate calling providers' cost recovery, permitting over-recovery on some calls, and under-recovery on others. If Gateway is truly concerned with inmate calling rates, it should agree that making the cost recovery charge explicit, and not distorting the per-minute transmission rates, will benefit called parties.

Gateway, however, faults the Coalition's \$.90 compensation charge/115% of Big Three non-inmate rates proposal, characterizing it as "a means of avoiding state limits on local inmate service rates." Gateway Reply at 6. This argument is spurious. As the Coalition has explained, the \$.90 inmate system compensation charge provides a mechanism for inmate calling service providers to be fairly compensated and to recover their costs without involving the Commission in the regulation of state collect calling rates. The states have adopted various approaches to setting rates for collect calls. Adding the \$.90 compensation charge to existing rates will preserve independent state judgments as to the appropriate collect calling rates in their jurisdiction. And, if any state believes that the \$.90 charge makes the cost of calls too high, it would, of course, be free to adjust its rate ceilings accordingly.¹⁰

In sum, the payphone compensation and rate ceiling proceedings are interrelated. In the payphone compensation proceeding, the Commission should adopt the Coalition's \$.90 inmate system compensation charge to ensure fair compensation for all inmate calls. Then, in the rate ceiling proceeding, the Commission would be free to set an interstate benchmark at the Big Three's non-inmate rates, plus 115%. Such a benchmark is consistent with the proposals of nearly every party participating in the rate ceiling

¹⁰ Gateway also repeats its assertion that the Coalition originally proposed a double recovery of the \$.90 compensation charge -- once through an explicit cost element and once again through the \$3.00 inmate surcharge which itself contains a roughly \$.90 cost recovery element. The record is absolutely clear, however, that *at no time has the Coalition ever sought double recovery of the \$.90 element*. It has always been the Coalition's position that the \$.90 per-call charge would not apply if the Commission adopts a rate benchmark at 115% of the Big Three's inmate rates. See Coalition BPP Comments at 9 ("If the Commission adopts [the] \$.90 compensation charge then the benchmark rate should be set at the Big Three's *non-inmate* rates plus 15%.") (emphasis added); Coalition BPP Reply at 3.

William F. Caton, Acting Secretary
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Page 5

proceeding. Proceeding along these lines will allow the Commission to keep the inmate calling services and transmission components of inmate calls separate.

Sincerely yours,

A handwritten signature in cursive script, reading "Albert H. Kramer".

Albert H. Kramer

AHK/pmd

cc: J. Muleta	R. Baca
L. Belvin	D. Gonzalez
M. Richards	K. Gulick
A. Auger	M. Carowitz
J. Caaserley	J. Nakahata

FEDERAL COMMUNICATIONS COMMISSION

Comments of Inmate Calling Services
Providers Coalition

CC Docket No. 96-12
Filed July 1, 1996

regulated services, harming ratepayers. Thus, in overseeing the transfer, the Commission should be guided by two principles: (1) ensuring that the transfer is fair to ratepayers, and (2) promoting fair competition with independent ICSPs.

Before the emergence of competition, LEC ICSPs provided inmate calling services through the same network systems used to provide regular collect calling services. Increasingly, however, in order to compete with the sophisticated call control systems furnished by independent providers, the LECs have migrated to providing the call control and call processing functions through discrete equipment similar to the inmate calling systems employed by independent ICSPs.²⁶ Some LECs, like the independent ICSPs, currently locate that equipment on the confinement facility's premises. Others locate the equipment in their central offices.

The Commission, in a separate proceeding, has already clarified that inmate calling systems located on customer premises must be transferred out of LEC regulated accounts.²⁷ This transfer is to be accomplished no later than September 2, 1996.²⁸ However, the Commission did not order that similar systems located in the network also be transferred out of regulated accounts. The Commission reasoned that such systems were not "enhanced services" as defined by the Computer III rules.²⁹

²⁶ This is especially true of larger LECs, including but not limited to, the BOCs.

²⁷ Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force, Declaratory Ruling, FCC 96-34 (February 20, 1996).

²⁸ Id., ¶ 35.

²⁹ Id., ¶¶ 28-32.

FEDERAL COMMUNICATIONS COMMISSION

Comments of Inmate Calling Services
Providers Coalition

CC Docket No. 96-12
Filed July 1, 1996

Section 276, however, requires the removal from regulated accounts of inmate systems wherever located, and without regard to whether the services provided are enhanced or basic. Since the call processing and call control system is the essential piece of equipment necessary to provide inmate calling services, it should be deregulated regardless of where it is physically located. If the historical availability of cross-subsidies to LEC inmate operations from regulated accounts is to end, as Section 276 says it must, the specialized call processing equipment whose primary function is to provide inmate calling services be removed from LEC regulated accounts regardless of whether the equipment is provided on-premises or attached to the LEC's network in the central office.³⁰ Thus, the accounts to be transferred should include calling systems and call control equipment, recording equipment and other hardware, and all other equipment or services directly related to the provision of inmate calling services, wherever located. In addition, the assets to be transferred should include the associated taxes.

The transfer must be done in such a way so as to ensure that the ratepayers do not bear the costs. Generally, where the market value of the asset exceeds the book value, the asset should be transferred at market value. This will ensure that the ratepayers receive the full value of the transferred assets. The Commission should also make clear that the value of the assets to be transferred includes the contracts between the LECs' inmate operations and confinement facilities. Such contracts, as with

³⁰ Some of the LECs use the same premises equipment as independent ICSPs but interconnect to the network at the central office rather than at the confinement facility's premises.

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A. BOC Provision of Account and Fraud Control Information to Independent ICSPs

Independent ICSPs have historically been handicapped in their ability to compete with BOC inmate calling services operations because the BOCs have provided critical account and fraud control information to their inmate divisions that they have refused to make available to independent ICSPs on an unbundled basis and on reasonable terms. While some of this information can be obtained if the ICSP enters into a direct billing agreement with the BOC, the cost of entering into such a billing arrangement is generally prohibitive.³⁵ Moreover, some BOCs refuse to provide the information even to ICSPs with whom they have billing and collection agreements.³⁶ As a result, the vast majority of independent ICSPs use third-party billing clearinghouses. The billing agreements between the BOCs and such third-party clearinghouses typically prohibit the use of information supplied to the clearinghouse by any other party.

The critical information that the BOCs currently provide to their own operations but historically have refused to make available to independent ICSPs on reasonable terms includes, among other things:

- Customer account information, including Social Security number and customer code;
- Service establishment date;
- Disconnect Date and reason for disconnect;

³⁵ Billing and collection agreements can require upfront payments by independent ICSPs of \$75,000 or more.

³⁶ Even where the BOC is willing to provide the information, it is unavailable to independent ICSPs for unpublished numbers. Inmates and their families have learned to take advantage of this fact. In some localities, 25% or more of the numbers called by inmates are unpublished.

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- Additional lines;
- Previous telephone numbers, if any;
- Service restrictions;
- Class of service;
- Payment history;
- Calling patterns/returns;
- Credit history; and
- Features (e.g. call forwarding or three-way calling)

Section 276's directive that the BOCs not discriminate in favor of their own operations requires that the Commission order that the account and fraud control information listed above also be made available to independent ICSPs on a nondiscriminatory basis. In 1993, the Commission determined that the BOCs (and all non-BOC LECs) are obligated to provide billing name and address ("BNA") on a nondiscriminatory basis as a regulated common carrier service subject to tariff.³⁷ The Commission took this action because it found that "only the LECs can provide BNA in accurate up-to-date form, and we cannot be confident that all LECs will provide BNA at reasonable rates and in a nondiscriminatory basis unless BNA is regulated as a Title II service."³⁸ The same concerns that prompted the Commission to act with respect to BNA are equally relevant with respect to the other information. Without the information listed above, independent ICSPs are handicapped in their ability to compete with the BOCs' inmate divisions, for which the information is readily available. The Commission should order that the BOCs provide this information upon request on an unbundled, nondiscriminatory basis at a reasonable charge.

³⁷ Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, Second Report and Order, 8 FCC Rcd 4478, 4482, ¶ 20 (1993).

³⁸ Id.

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Moreover, the Commission should order that this information be provided on a real-time basis. The BOCs have access to this information on-line and, presumably, can check any relevant item before completing an inmate call. This allows them to identify potential problems and minimize the bad debt that is incurred. If independent ICSPs are to be placed on equal footing with the BOCs – as Section 276 requires – they must be able to do the same. Thus, the Commission must order that the BOCs make public, or at least provide independent ICSPs with access to, their internal customer databases, for the limited purpose of validating account information to the extent necessary for billing and collection.

Not only must the BOCs make this information available to the independent ICSPs, they must provide it to their own inmate calling services on the identical terms and conditions as an arm's length transactions. The Commission must ensure that to the extent that independent ICSPs are charged for information, their inmate divisions are similarly charged.

The validation of called number billing status through LIDB is another area where the Commission must act in order to ensure equal, nondiscriminatory treatment for independent ICSPs, as required by Section 276. The tariffs of six of the seven regional Bell operating companies require that LIDB validation be performed on an on-line, real-time basis. As a result, ICSPs must validate every call, even where the call is to a known, recently called number. The cost for each LIDB check is \$.06 or more. Since every attempted call must be validated, including calls to busy numbers,

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unanswered calls, and refused calls, ICSPs spend \$.20-.30 or more on validation for every revenue-generating call. By contrast, there is no mechanism in place that ensures that the BOCs' inmate divisions must bear their costs for LIDB validation. Moreover, it is not clear that the BOCs charge themselves the same rates charged to ICSPs by LIDB clearinghouses.

The Commission must require the BOCs' inmate divisions to access LIDB under the same terms and conditions as independent ICSPs. This will ensure both that they properly account for their costs and that they pay the same rate as ICSPs.

In addition, the Commission must also address the problem of competitive local exchange carrier ("CLEC") number validation. LIDB provides no indication that a called party has switched telephone companies from an incumbent LEC to a CLEC. If the called number validated properly before the switch, it continues to do so. As a result, the independent ICSP has no way of knowing that it should not continue to send its billing data to the LEC. Several months later, the LEC reports the call as uncollectible. Since no explanation is given, the independent ICSP has no way of knowing why the call was uncollectible. And, even if it could determine that the call was to a CLEC, the independent ICSP does not know which CLEC.

Since the competing BOC knows that the called party has switched carriers, and knows the identity of the CLEC, BOC inmate divisions have a tremendous advantage. This advantage will only grow as competition develops and more customers

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elect to switch to CLECs. To level the playing field, the Commission must require that this information be made available generally. To the extent that it is furnished to the BOC's inmate division, it must also be given to their independent counterparts.³⁹

B. Nondiscriminatory Treatment of Billing and Collection

In addition to being unable to obtain critical account information, independent ICSPs are also discriminated against as a result of the differences in the way they must bill inmate 0+ collect calls versus the way the BOCs bill for the same type of call. Billing and collection has been deregulated since 1986.⁴⁰ However, Section 276 draws no distinction between regulated and unregulated services; it says simply that a BOC providing payphone service "shall not prefer or discriminate in favor of its payphone service." 47 U.S.C. § 276(a)(1). Thus, the Commission must address in this proceeding the currently discriminatory and anticompetitive billing and collection practices engaged in by the BOCs on behalf of their inmate calling services operations.⁴¹

As a result of their current billing practices, BOC inmate calling services operations currently do not have to account for their bad debt.⁴² The BOCs do not retain

³⁹ In addition, the Commission should require that LIDB be updated to return a carrier code in response to validation inquiries.

⁴⁰ Detariffing Billing and Collection, 102 FCC 2d 1150, 1170-71, ¶ 38 (1986).

⁴¹ Though billing is deregulated and thus independent ICSPs are free to perform their own billing, the billing services offered by the BOCs have the strong advantage of being coupled with billing for local telephone service.

⁴² BOC inmate services operations send their call record to the BOCs' billing and collection departments in the standard format generated by the Automatic Message Accounting ("AMA") system. The calls therefore appear on the customer's regular billing pages.